FCC 95-212

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 95-72
End User Common Line Charges	)	
	)	

NOTICE OF PROPOSED RULEMAKING

Adopted: May 24, 1995 Released: May 30, 1995

Comment Date: June 29, 1995
Reply Date: July 14, 1995

By the Commission:

I. Introduction

1. In this Notice of Proposed Rulemaking, we invite interested parties to comment on a number of issues involving the recovery of local loop costs from residential and business end user subscribers. In particular, we seek comment on the application of End User Common Line Charges, hereinafter referred to as Subscriber Line Charges (SLCs), to local loops used with Integrated Services Digital Network (ISDN) and other services that permit the provision of multiple voice-grade-equivalent channels to a customer over a single facility.[1] We believe that the question of SLCs for ISDN and similar services must be considered in the broader context of competitive developments in the interstate access market, and the resulting pressure to reduce unnecessary support flows in order to ensure fair competition and preserve universal service.

II. Background

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[1] For purposes of this Notice, a "single facility" refers, for example, to both ordinary residential local loops and T-1 facilities, although residential local loops generally consist of a single pair of twisted copper wires, and a T-1 facility generally consists of two twisted copper pairs. The equivalent of up to 24 voice-grade channels can be provided over a T-1 facility using multiplexing equipment. See generally, William L. Schweber, Electronic Communications Systems at 685, Prentice-Hall, Inc. 1991.

A. ISDN and Other Derived Channel Technology and Services

2. ISDN permits digital transmission over ordinary local loops[2] and T-1 facilities through the use of advanced central office equipment and customer premises equipment (CPE). In order for a Local Exchange Carrier (LEC) to provide ISDN, it must have a digital switch in the central office serving the customer,[3] and substitute an ISDN line or trunk card for the standard cards[4] that would otherwise be used in the central office with the loop facilities serving the customer. The customer must also use special ISDN-capable CPE on its premises.[5]

3. Currently, LECs' offer two basic types of ISDN service.[6] Basic Rate Interface (BRI) Service allows a subscriber to obtain two voice-grade-equivalent channels and a signalling/data channel over an ordinary local loop, which is generally provided over a single twisted pair of copper wires.[7] Primary Rate Interface (PRI) Service allows subscribers to obtain 23 voice-grade

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[2] A local loop connects a subscriber's home or business to the local telephone company central office.

[3] It is possible to serve an ISDN customer through a distant ISDN-equipped central office if the local central office is not equipped with ISDN. Bell Atlantic Emergency Petition for Waiver at n.11, filed February 10, 1995.

[4] A subscriber loop interface circuit or line card in the local switch "is responsible for providing signals to the loop, sensing loop activity, and sending control signals to the phone at the end of the loop." William L. Schweber, Electronic Communications Systems at 492, Prentice-Hall, Inc. 1991. A trunk card performs similar functions for trunks, which generally connect LEC offices.

[5] The ISDN CPE used with an ordinary copper pair local loop can cost between $250 and $1,000. The ISDN CPE used with a T-1 connection can cost up to $15,000. See Bell Atlantic Petition at n.13.

[6] All of the Bell Operating Companies (BOCs) and some of the larger independent telephone companies offer ISDN in at least part of their service territory.

[7] The two voice-grade-equivalent channels, which are called the bearer or B channels, can be used for voice local exchange service or for data transmission at speeds up to 64 kbps. The third channel is a 16 kbps data channel, called the delta or D channel, which is used for signalling and packet data services. Bell Atlantic Petition at n.8.

equivalent channels and one data channel over a single T-1 facility with two pairs of twisted copper wires.[8]

4. A small business or residential customer with BRI can use voice service, access a database service, and send a facsimile, all at the same time, over a single local loop consisting of a twisted copper pair. Standard local exchange service permits only one of these activities at a time. BRI also permits customers to transmit and retrieve data at higher speeds than are currently possible using a standard analog local loop and a modem. PRI and other derived channel services afford larger business customers the advantages of digital service, including higher speed data transmission and greater accuracy. In addition, the use of ISDN and other services providing customers with multiple voice-grade-equivalent channels over a single facility (derived channels) can avoid or reduce the need for new cabling, and thus conserve space in existing conduit or intra-building cable vaults.

5. There are services in addition to ISDN that use derived channel technology to provide multiple channels over a single facility. For example, NYNEX provides FLEXPATH service, which provides a customer with 24 digital voice-grade-equivalent trunk channels over a T-1 facility between a suitably equipped central office and a digital PBX.[9] PBX Conversion Service, another NYNEX offering, provides digital trunking capability, with up to 24 trunk access lines, between a customer's digital PBX and an analog-to-digital interface located at the central office switch.[10] Other LECs also offer digital T-1 service with 24 voice-grade equivalent channels. NYNEX's Data Over Voice service provides customers with a voice grade channel and a data channel over a single copper pair. The LECs also use derived channel technologies within their networks to provide customers with individual local loops, as opposed to BRI or PRI ISDN for example. In such situations, the end user would not be aware that the LEC was using this technology to provide their local

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[8] In the case of PRI, the 23 B channels and the D channel can transmit voice or data at speeds up to 64 kbps. When a customer has more than one PRI connection at a given location, the B channels can share a single D channel. This permits the customer to use all 24 channels on the subsequent connections directly for their own communications needs. Id. at n.8.

[9] Memorandum Opinion and Order, NYNEX Telephone Companies Revisions to Tariff F.C.C. No.1, 7 FCC Rcd 7938 n.11 (Com. Car. Bur. 1992) (Rejection Order), aff'd, 10 FCC Rcd 2247 (1995).

[10] Id.

loop.[11]

B. Subscriber Line Charges

6. In the Access Charge Order, the Commission adopted rules prescribing a comprehensive system of tariffed access charges for the recovery of LEC costs associated with the origination and termination of interstate calls.[12] The access charge rules called for recovery of a major portion of the local loop costs assigned to the interstate jurisdiction through SLCs.[13] The remainder of local loop costs are recovered from interexchange carriers (IXCs) through the per minute CCL charge.[14] The CCL charges paid by the IXCs are reflected in the charges paid by interstate toll users.

7. Multiline business SLCs of up to $6.00 per line per

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[11] The LECs charge a single SLC for each of these channels. See, e.g., Rejection Order at para. 2.

[12] Third Report and Order, MTS and WATS Market Structure, CC Docket No. 78-72, 93 FCC 2d 241 (1983), recon., Memorandum Opinion and Order, CC Docket No. 78-72, 97 FCC 2d 682 (1983) (First Recon. Order), further recon., Memorandum Opinion and Order, CC Docket No. 78-72, 97 FCC 2d 834 (1984), aff'd in part, National Association of Regulatory Utility Commissioners v. FCC, 737 F.2d 1095 (1984).

[13] Although SLCs were initially adopted in the Third Report and Order in the MTS and WATS Market Structure proceeding, supra n.12, the issue of SLCs for residential and single line business customers was subsequently referred to a Joint Board composed of Federal Communications Commission and state regulatory Commissioners for a development of recommendations. The Commission implemented SLCs for residential and single line business customers based on the Joint Board's recommendations. Decision and Order, MTS and WATS Market Structure, CC Docket No. 78-72 and Amendment of Part 67 of the Commission's Rules, CC Docket No. 80-286, 50 Fed. Reg. 939 (1985); Report and Order, MTS and WATS Market Structure, CC Docket No.78-72 and Amendment of Part 67 of the Commission's Rules, CC Docket No. 80-286, 2 FCC Rcd 2953 (1987).

The interstate allocation of common line costs is 25% of the cost of local loop plant unless the LEC is eligible for compensation from the Universal Service Fund. In that case, the allocation is higher. 47 C.F.R. § 36.154(c)& Subpart F-Universal Service Fund.

[14] 47 C.F.R. § 69.105.

month became effective on May 24, 1984.[15] Residential and single line business SLCs of up to $3.50 per line per month were implemented in five steps, between June 1985[16] and April 1989.[17] In conjunction with the implementation of SLCs, the Commission took steps to waive these charges for low income subscribers.[18]

8. The SLC rate structure is designed to recover a greater proportion of local loop costs from multiline business customers than from residential and single line business customers. Multiline business customers pay the full interstate assignment of local loop costs up to $6.00 per month. In contrast, residential and single line business customers pay a SLC of no more than $3.50 per month, which is, in most cases, significantly below the full interstate assignment of local loop costs.

9. As the recovery of interstate loop costs through SLCs increased, the interstate Common Line loop costs that remained to be recovered through CCL rates paid by the IXCs decreased. This

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[15] The SLC for multiline business customers is capped at $6.00 per line per month or the full interstate assignment of common line costs per month, whichever is less. 47 C.F.R. § 69.104(c)&(d).

[16] Decision and Order, MTS and WATS Market Structure, CC Docket No. 78-72, and Amendment of Part 67 of the Commission's Rules, CC Docket No. 80-286, 50 Fed. Reg. 939 (1985).

[17] Residential and single line business SLCs are capped at $3.50 per line per month or the full interstate assignment of common line costs per line per month, whichever is less. 47 C.F.R. §§ 69.104 & 69.203 (a).

[18] Decision and Order, MTS and WATS Market Structure, CC Docket No. 78-72 and Amendment of Part 69 of the Commission's Rules, CC Docket No. 80-286, 50 Fed. Reg. 939 (1985) (initial subscriber line charge waiver). Decision and Order, MTS and WATS Market Structure, CC Docket No. 78-72 and Amendment of Part 69 of the Commission's Rules, CC Docket No. 80-286, 51 Fed. Reg. 1371 (1986) (lifeline assistance), aff'd on recon., 1 FCC Rcd 431 (1986), modified, Report and Order, MTS and WATS Market Structure, CC Docket No. 78-72 and Amendment of Part 69 of the Commission's Rules, CC Docket No. 80-286, 2 FCC Rcd 2953, 2955-56 & 2957-59 (1987), recon., 3 FCC Rcd 4552-53. Report and Order, MTS and WATS Market Structure, CC Docket No. 78-72 and Amendment of Part 69 of the Commission's Rules, CC Docket No. 80-286, 2FCC Rcd 2953 (1987) (Link Up America assistance), modified, Decision and Order, MTS and WATS Market Structure, Link Up America, and Amendment of Part 36 of the Commission's Rules, CC Docket No. 88-341, 4 FCC Rcd 3634 (1989).

resulted in substantial reductions in CCL rates. The Commission required AT&T to flow the reductions in per minute interstate CCL charges through to consumers in the form of reduced interstate toll rates.[19] Basic interstate toll rates decreased approximately 34% between 1984 and the end of 1992, much of this due to the shift in the recovery of common line costs from CCL rates to SLCs and the resulting stimulation in demand.[20]

C. Recent Decisions on SLCs for ISDN

10. The Commission did not address the application of SLCs to ISDN and other technologies that permit the provision of multiple voice grade channels over a two or four wire facility when it initially adopted the access charge regime. That issue was presented to the Commission for the first time by a 1992 NYNEX tariff filing. In Transmittal No. 116, NYNEX proposed to apply a single multiline business SLC to each T-1 facility used to provide a single customer with certain services, even though the T-1 facility provided that customer with up to 24 voice-grade-equivalent communications channels.[21] In order to qualify for this treatment, all of the channels derived from the T-1 facility had to be used to provide a single customer with either FLEXPATH digital PBX (FLEXPATH) Service, Analog to Digital Conversion PBX (Conversion PBX) Service, or ISDN Primary Service. At the time of the tariff filing, NYNEX applied one SLC for each derived channel used for local exchange service in the case of such services.

11. The Common Carrier Bureau rejected the Transmittal based on a finding that it did not comply with the rule governing assessment of SLCs.[22] In doing so, the Bureau relied on the Part

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[19] The reductions in interstate toll rates also stimulated demand for these services, increasing the number of switched access minutes over which the nontraffic sensitive CCL costs were recovered. This permitted additional CCL rate reductions.

[20] Monitoring Report, CC Docket No. 87-339, at Table 5.5, May 1994.

[21] Rejection Order, 7 FCC Rcd 7938 para. 2(1992). See para. 5 supra for a description of these services.

[22] Rejection Order, 7 FCC Rcd 7938 (CCB 1992). Section 69.104 of the Commission's rules, 47 C.F.R. § 69.104, provides for a monthly per line charge for end users that subscribe to local exchange service, stating that such charges shall be assessed for each line between the customer's premises and a Class 5 Office that is or may be used for local exchange transmissions.

36, Jurisdictional Separations, definition of a subscriber line as a "communication channel between a telephone station, PBX [Private Branch Exchange], or TWX (Teletypewriter Exchange Service) station and the central office,"[23] and the Part 36 definition of a channel as an "electrical path suitable for the transmission of communications between two or more points."[24] In the provision of derived channel services, the Bureau concluded that NYNEX was providing up to 24 electrical paths suitable for the transmission of communications even though the channels were provided over a single facility.[25]

12. In a recent Order, the Commission affirmed the Bureau's conclusion that Section 69.104 of the rules requires assessment of a SLC for each derived channel.[26] At the same time, the Commission recognized that many of the comments filed in that proceeding raised policy issues best considered in the context of a rulemaking proceeding.[27]

D. Competition

13. The interstate access market has changed since the Commission adopted the access charge rules at issue here. Alternative service providers such as Teleport, which is owned by a group of large cable companies,[28] and MFS have deployed fiber optic networks in core business areas of many large cities, providing interstate access services, and, in some areas, local exchange service as well.[29] Cable television companies, in addition to those with an ownership interest in Teleport, have

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[23] Rejection Order at para. 5, citing 47 C.F.R. Part 36 Glossary (emphasis added).

[24] Id.

[25] Rejection Order at para. 5.

[26] Order on Reconsideration, NYNEX Telephone Companies Revisions to Tariff F.C.C. No.1, Transmittal No. 116, FCC No. 94-356, released January 11, 1995, 10 FCC Rcd 2247 (1995).

[27] Id. at para 26.

[28] Teleport is owned by Telecommunications, Inc. (TCI) (29.9%), Cox Cable Communications (30.1%), Comcast Corp. (20%), and Continental Cablevision (20%). Telephone Interview with Rodger Cawley, Director Public Affairs, TCG (Teleport), May 23, 1995.

[29] "Fiber Deployment Update - End of Year 1993," Industry Analysis Division, Common Carrier Bureau, FCC (1994) at 31-41.

also entered the local telephone and/or interstate access market in certain areas, and have expressed an intention to enter the telephone market on a broader basis.[30] Interexchange carriers, such as MCI and AT&T, have also entered the market or announced an intention to do so.[31] In addition, the Commission has required expanded interconnection for the provision of special access service and switched transport.[32] New York State has also required LECs to unbundle their local loops in order to permit the competitive provision of local exchange service, and a number of other states are considering similar measures.

14. These developments tend to bring pressure to bear on support flows in the current access charge structure.[33] LEC rates

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[30] Hyperion Telecommunications, Inc., a competitive access provider operating in a number of states, is owned almost entirely by Adelphia Cable. See also "The Man who Would Save **NY** for **NYNEX**," New York Times, p. D1, April 3, 1995; "NCTA Targets Arizona, Missouri for Local Competition" Telecommunications Reports, at 13, March 20, 1995.

[31] For example, AT&T now offers local exchange service on a limited resale basis in the Rochester Telephone Company service area. Rochester Telephone Company Petition for Waivers to Implement Its Open Market Plan, FCC 95-96, released March 7, 1995. AT&T has also announced an intention to enter the local exchange market in certain other areas. "AT&T Applies for Local Service Authority in Two States," Telecommunications Reports, pp.35-36, May 8, 1995. MCI recently announced plans to build local access facilities. "The Man Who Would Save **NY** for **NYNEX,**" New York Times, p. D1, April 3, 1995.

[32] Report and Order and Notice of Proposed Rulemaking, Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, 7 FCC Rcd 7369 (1992)(Special Access Expanded Interconnection Order), recon., 8 FCC Rcd 127 (1992), vacated in part and remandedsub nom. Bell Atlantic v. FCC, No. 92-1619(D.C. Cir., June 10, 1994), on remand, Memorandum Opinion and Order, FCC 94-190, released July 25, 1994 (Remand Order); Second Report and Order and Third Notice of Proposed Rulemaking, Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, 8 FCC Rcd 7374 (1993) (Switched Transport Expanded Interconnection Order), pet. for review pending sub nom. Bell Atlantic v. FCC, No. 93-1743 (D.C. Cir., filed Nov. 12, 1993.)

[33] For purposes of this Notice, "support flows" refer the to the benefits a particular group of customers receives when they pay less than the LEC cost of providing the services they use, while other customers pay more than the cost of the services that

that significantly exceed cost will tend to attract new entrants who may be able to offer service at lower rates. As a result, it may be necessary to reduce support flows that are not specifically tailored to produce social benefits.

III. Discussion

A. Overview

15. In this proceeding, we seek comment on the proper application of SLCs to BRI and PRI ISDN service provided to residential and business customers as well as to other services that permit the provision of multiple derived channels over a single facility. We believe that consideration of this issue must take into account competitive developments in the interstate access market, the need to ensure fair competitive ground rules, and the need to preserve universal service in a changing environment.

B. Analytical Framework

16. We believe that several basic principles should guide our resolution of these issues. While these considerations are sometimes in potential conflict with one another, we believe that they all must be considered to assure a sound, principled resolution of the issues before us in this proceeding.

17. This rulemaking proceeding gives the Commission an opportunity to reexamine existing rules, and make changes in light of new technologies and services. We must be careful to avoid erecting regulatory barriers to the development of beneficial new technologies. This is particularly important when these services and technologies can facilitate access to the benefits of the National Information Infrastructure. At the same time, we should not amend our rules to favor new technologies and services simply because they are new. Any difference in the regulatory treatment of new technologies and services must have a sound basis in public policy.

18. We also believe that it is desirable to avoid measures that could reduce the level of nontraffic sensitive (NTS) local loop costs now recovered through flat charges. We find that the implementation of SLCs has produced significant benefits, leading to lower interstate toll rates, and increased economic efficiency.[34] SLCs have also reduced the untargeted support flows

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they receive. See n.35 infra.

[34] As previously discussed, SLCs resulted in substantial reductions in interstate toll rates. This resulted in increased

between high and low volume toll users.[35] Any reduction in SLC revenues will tend to increase interstate toll rates because lower SLC revenues will cause LECs to seek to recover additional revenues through the per minute CCL charge.[36] We also believe that policies that would appear to reduce dramatically SLC charges to large business customers, but not to residential customers, must be carefully examined.[37]

19. Resolution of the issues in this proceeding should also take into account competitive developments in the interstate access market, and the accompanying need to identify and reduce unnecessary support flows, and reexamine rate structures predicated on an exclusively monopoly market structure. We believe that this is necessary in order to ensure fair competition and preserve universal service.

20. In light of competitive developments in the interstate access market, rule changes that could result in lower SLC revenues and higher CCL rates, thus potentially increasing support flows, must be carefully examined. To the extent that the LECs do not recover interstate NTS local loop costs through SLCs, they recover these costs through the CCL charge. The per minute CCL charge paid by IXCs and reflected in their interstate toll rates forces high volume residential and business toll users to pay charges that exceed the local loop costs they impose on the network. This creates incentives for high volume toll customers to use competitors even when the LEC would be the most efficient access provider. Increasingly, IXCs and large business customers have alternatives to use of LEC facilities for the origination and termination of interstate traffic, particularly in major urban business centers. In such areas, they can avoid

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demand for interstate toll services without commensurate increases in LEC costs since local loop costs are not traffic sensitive.

[35] Recovery of the interstate allocation of local loop costs through per minute toll charges forced high volume toll users to pay much more than the cost of the local loop facilities that they used. At the same time, low volume toll users failed to pay the full cost of their local loop facilities, regardless of their ability to do so.

[36] The Price Cap rules establish a single Price Cap Index (PCI) for the Common Line Category, which includes the SLC and CCL rate elements. Thus, a forecast decrease in SLC revenue permits the LEC to increase CCL rates, absent other offsetting factors. 47 U.S.C. § 61.46(d).

[37] See infra para. 26.

support flows inherent in the current access charge rate structure, including the CCL charge. In the long run, inefficient bypass of the LEC networks by high volume toll customers could threaten to undermine the support flows that foster universal service.

C. Options

1. Overview

21. There are potentially many ways that the number of SLCs for ISDN and similar derived channel services could be computed. At one extreme, we might require customers to pay one SLC for each physical facility serving a given customer, such as a standard local loop or T-1 facility. At the other extreme, we could maintain the current rule under which a SLC is applied to each derived communications channel.

22. There are also intermediate options. For example, the number of SLCs to be applied to ISDN facilities could be based on a ratio of the average LEC cost of providing a derived channel service, such as a BRI or PRI ISDN connection, to the average cost of providing an ordinary local loop or T-1 connection, including the line or trunk card costs in both cases. Under this option, a PRI customer would, for example, pay six SLCs if the average LEC cost of providing an ISDN T-1 connection, including line cards, is six times the average cost of providing an ordinary T-1 facility. It would also be possible to apply one SLC for every two derived channels, an option that would reduce by 50 percent the SLC revenues that would be generated under the current requirement that one SLC be assessed for each derived channel.

23. Another set of options would focus on the increasingly competitive interstate access market in determining how to compute the SLC to be paid by customers of derived channel services. One possibility is to combine a reduction in the currently required level of SLC charges for derived channel services with a small increase in the per-channel SLC for all local loops. Another option involves giving the LECs some flexibility in setting SLC rates for derived channel services, but modifying the price cap rules so that any reduction in SLC flat rate recovery does not increase the CCL rate.

2. The Per-Facility Approach

24. Under this approach, customers pay a single SLC per derived channel service connection. Thus, under this option, both BRI and PRI ISDN customers would pay a single SLC. Under a variation on this option, an ISDN BRI customer with one copper pair would pay a single SLC, and a PRI customer with two copper pairs would pay two SLCs. These approaches, which base the

number of SLCs on the physical loop facilities used by the customer, arguably reflect, in a general way, the loop costs imposed on the network by the customer. These options also would encourage the use of derived channel technology, and permit residential and business customers to take advantage of the substantial benefits of such channels at lower charges than are required under the current rules. This is particularly important since these services facilitate improved access to the National Information Infrastructure.

25. Widespread use of ISDN and other derived channel services under these approaches, which apply far fewer SLCs to such services than the current requirement, could reduce multiline business SLC revenues over time. This would tend to increase interstate toll rates as a result of increases in LEC CCL rates. This approach also appears potentially inconsistent with the general objective of reducing the untargeted support flows intrinsic to the existing per minute CCL charge.[38] In addition, applying SLCs based on the number of copper pairs used by a customer is not feasible if a customer's local loop is provided over coaxial or fiber optic cable. These options would also result in inconsistent treatment when the same derived channel technology is used to provide local loops in other service configurations.[39]

26. Moreover, these options lead to lower SLCs for large business customers than for residential and single line business customers. At present, residential and single line business customers generally pay monthly SLCs of $3.50 per line, while multiline business customers pay monthly SLCs of up to $6.00 per line. Under the per-facility approach, large business customers taking a derived channel service that provides 24 channels, such as ISDN PRI, would pay a single SLC capped at $6.00 per month, which equates to $.25 per month per voice grade equivalent channel. Residential and single line small business customers taking ISDN BRI would pay a single SLC capped at $3.50 per month, which equates to $1.75 per month for each voice grade equivalent channel. In contrast, a residential subscriber with a single standard local exchange line pays up to $3.50 per month in SLCs. Moreover, a household with a second standard local exchange or "teen" line pays $7.00 per month in SLCs even though LECs typically run two copper pairs to each residence, and thus the

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[38] See para. 18 & n.35 supra.

[39] For example, in its tariff, NYNEX proposed to continue to apply SLCs on a per-derived-channel basis when a single T-1 facility was used to provide more than one service to one customer. Rejection Order at para.6; Reconsideration Order at para 19.

use of a second line does not require additional plant investment.

3. Intermediate Options

27. An option that may represent a potential middle ground between the per facility and the per derived channel approaches would be to charge SLCs based on a ratio of the average LEC cost of providing a derived channel service, including line or trunk cards, to the average LEC cost of providing an ordinary local loop or T-1 facility.[40] Under this approach, a PRI customer, for example, would pay six SLCs if the LEC cost of providing an ISDN T-1 connection, including line or trunk cards, is six times the cost of providing an ordinary T-1 facility.

28. While we do not have data on the relationship between the cost of providing ISDN and non-ISDN local loops and T-1 facilities, we anticipate that this approach would produce SLC revenues for ISDN and other derived channel services that are higher than those produced by applying a single SLC per facility, but well below those produced by charging a SLC for each derived channel. If this is correct, this approach would affect demand for derived channel services less than a SLC for each derived channel. At the same time, it would not have the same potential to reduce multiline business SLC revenues and to cause increased interstate toll rates as the per facility approach has. As a result, this approach would also be more consistent with the objective of reducing the untargeted support flows intrinsic to the CCL charge in light of competitive developments in the interstate access market.

29. This approach does appear to depart from the averaging reflected in SLCs to date. Subject to the $3.50 and $6.00 caps, SLCs are based on averaged loop costs within each study area, and the Commission has not previously established lower SLCs for a particular service or group of customers based on the lower cost of serving them. While the maximum SLCs for residential and single line business customers are lower than the maximum SLCs for multiline business customers, this difference in the rate cap is not based on cost differences.[41] This approach also includes the cost of the line cards in developing the cost relationship between ISDN connections and non-ISDN connections even though line cards are treated as switching, not local loop facilities for jurisdictional separations and Part 69 cost allocation

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[40] The need to obtain and analyze cost data may represent a drawback to this approach.

[41] For an explanation of how SLCs are calculated see para. 8 supra.

purposes. In light of the additional local switching costs incurred to provide ISDN, however, additional cost recovery, even if accomplished through a different rate element, may be reasonable.

30. Reducing SLCs for derived channel connections to 50 percent of the level required by the current rules is another intermediate option between the per-facility and per-derived channel approaches. Under this approach, the LECs would charge one SLC for every two derived channels.[42] Like the previous option, this approach would foster the growth of derived channel services to a greater extent than applying a SLC to each derived channel. This option would also raise substantially less concern about increasing interstate toll rates than the per-facility approach. It is also more consistent with the long term need to reduce the support flows intrinsic to the current CCL charge in light of increasing competition.

4. The Per-Derived Channel Approach

31. The existing rules require that the LECs charge a SLC for each derived channel in the case of ISDN and other similar services. Absent other off-setting changes, this approach increases the customer's total price for ISDN, and will tend to reduce demand for such services. On the other hand, this approach would not have the potential to increase CCL charges and interstate toll rates since it would not tend to reduce SLC revenues. In fact, applying a SLC to each derived channel could potentially increase current SLC revenues and reduce support flows intrinsic to the CCL charge[42] even as areas of competition are developing in the interstate access market.

5. Additional Options

32. There are also several other options that focus on the issue of SLCs for ISDN and other derived channel services in a changing interstate access market. As previously discussed, these developments in the marketplace exert increasing pressure on existing support flows, such as those intrinsic to the current per minute CCL charge used to recover NTS local loop costs. As a result, these options would combine reductions in the number of SLCs that our current rules would impose on derived channel services with measures to ensure that this does not increase per minute CCL charges.

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[42] This could also be done by applying 50 percent of the otherwise applicable SLC charge to each derived channel.

[42] See, paras. 18 & 20 supra.

33. One such option would be to permit the LECs to impose a reduced number of SLCs for derived channel services, accompanied by a small increase in SLC rates. For example, the current caps on SLCs could be increased by $.25 per month for all subscribers. This approach would encourage the development of ISDN and other derived channel services by reducing cost recovery from derived channel services. At the same time, it would lessen or prevent any potential reduction in SLC revenues that could lead to higher interstate toll rates.

34. A second approach that would prevent adverse consequences from a potential reduction in multiline business SLC revenues would be to permit, but not require, the LECs to apply fewer SLCs for derived channel services than the current rules require, but to adjust the price caps rules to prevent this from leading to an increase in CCL rates. This approach would permit the LECs to lower SLCs for derived channel services in order to encourage their development, but would prevent a reduction in SLC revenues from causing an increase in CCL charges and putting upward pressure on interstate toll rates.

6. Request for Comments

35. We ask interested parties to comment on the analytical framework and options for defining the SLCs that subscribers to ISDN and other derived channel services must pay. We also seek comment on our analysis of the various options described in this Notice. Commenting parties are urged to suggest additional or different policy goals as part of the analytical framework for evaluating options as well as to present additional options for the Commission's consideration. We also seek comment on whether any new rules for the application of SLCs for ISDN and similar derived channel services should apply to all local loops provisioned by the telephone company through the use of derived channel technology, regardless of whether the use of derived channel technology in the provisioning of the loop is apparent to the subscriber or not.[43]

36. In addition, we note that it would be helpful if interested parties provide us with specific information concerning the perceived elasticity of demand for ISDN services, the various ISDN service options available in the marketplace, the total intrastate charges for each of these service options, as well as the advantages and disadvantages of alternative service and equipment configurations that offer communications capabilities comparable to those of ISDN. Moreover, certain of the options for applying SLCs under our Part 69 access charge rules described above would use a definition of the term "line"

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[43] See para. 5 supra.

that differs from the current separations definition in Part 36.[44] We seek comment on whether we should initiate the process of considering conforming separations changes through a referral to a Joint Board in the event that we adopt such an approach. In light of competitive developments in the interstate access market, interested parties may also wish to take this opportunity to comment more generally on the need for additional changes to the way carriers can recover the interstate assignment of local loop costs and local switching or other other costs that the parties view as NTS.

IV. Ex Parte Presentations

37. This proceeding is a non-restricted notice and comment rulemaking. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.[45]

V. Regulatory Flexibility Analysis

38. We certify that the Regulatory Flexibility Act[46] is not applicable to the rule changes we are proposing in this proceeding. If the proposed rule changes are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The LECs are not small entities as defined by the Act because, even with increased competition, they remain dominant in their service areas. Since only the LECs are directly subject to the proposals herein, the Commission is not required to apply the formal procedures set forth in the Regulatory Flexibility Act. We are nevertheless committed to reducing the regulatory burdens on small telephone companies whenever possible consistent with our other public interest responsibilities. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. S 601, et seq.

V. Comment Filing Dates

39. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. SS 1.415 & 1.419, interested parties may file comments with the Office of

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[44] See para. 11 supra.

[45] See generally, Sections 1.1202, 1.1203 and 1.1206(a) of the Commission's rules, 47 C.F.R. §§ 1.1202, 1.1203 & 1.1206(a).

[46] 5 U.S.C. §§ 601-12.

the Secretary, Federal Communications Commission, Washington, D.C. 20554 on or before June 29, 1995, and reply comments on or before July 14, 1995. To file formally in this proceeding, participants must file an original and four copies of all comments, replies, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. In addition, parties are to provide a copy of any filings in this proceeding to Peggy Reitzel of the Policy and Program Planning Division, Common Carrier Bureau, Room 544, 1919 M Street, N.W., Washington, D.C. 20554. Parties are also to file one copy of any documents in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and Reply comments will be available for public inspection during regular business hours in the FCC Reference Room (Room 239), 1919 M Street, N.W. , Washington, D.C.

V. Ordering Clauses

40. Accordingly, IT IS ORDERED that, pursuant to the authority contained in Sections 1, 4, and 201-205 of the Communications Actof 1934, as amended, 47 U.S.C. SS 151, 154, & 201-205, a NOTICE OF PROPOSED RULEMAKING IS HEREBY ADOPTED.

FEDERAL COMMUNICATION COMMISSION

William F. Caton
Acting Secretary